

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
Hopewell Cogeneration Limited Partnership  
Registration No. 50967**

**SECTION A: Purpose**

This is a Consent Order issued under the Authority of Va. Code ' 10.1-1309 and 10.1-1316 between the State Air Pollution Control Board and Hopewell Cogeneration Limited Partnership, for the purpose of resolving certain violations of environmental laws and regulations and to provide for the payment of civil charges.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1.     **AVa. Code@** means the Code of Virginia (1950), as amended.
2.     **ABoard@** means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code ' ' 10.1-1301 and 10.1-1184.
3.     **ADepartment@** means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code ' 10.1-1183.
4.     **ADirector@** means the Director of the Department of Environmental Quality.
5.     **AOrder@** means this document, also known as a Consent Order.
6.     **ARegulations@** mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*

7. "Hopewell Cogeneration" means Hopewell Cogeneration Limited Partnership certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
8. "Facility" means the Hopewell Cogeneration Limited Partnership Facility located at 1114 Hercules Road in Hopewell, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the Virginia Title V Operating Permit issued to Hopewell Cogeneration Limited Partnership on May 22, 2001.

### **SECTION C: Findings of Facts and Conclusions of Law**

1. Hopewell Cogeneration operates an electrical cogeneration facility located at 1114 Hercules Road, in Hopewell, Virginia. This facility is the subject of the Virginia Title V Operating permit issued on May 22, 2001
2. Section VIII. Condition E. of the Permit requires the Facility to submit to the Department an Annual Compliance Certification no later than March 1<sup>st</sup> of each calendar year. The report is required under 9 VAC 5-80-110 K.5 of the Regulations.
2. On November 7, 2002, an air compliance inspection was performed at Hopewell Cogeneration by PRO staff. During this inspection PRO was informed that the Hopewell Cogeneration had not submitted the annual Title V certification by March 1, 2002, as required in Section VIII. Condition E. of their May 22, 2001 Title V Permit.
4. On December 18, 2002, a Notice of Violation was issued for failure to provide the annual Title V certification which was due by March 1, 2002.

### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code ' 10.1-1316 C, orders Hopewell Cogeneration, and Hopewell Cogeneration agrees to pay a civil charge of \$2,300 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, payable to "Treasurer of Virginia", and delivered to:

Receipts Control  
Department of Environmental Quality

Post Office Box 10150  
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number of the facility.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Hopewell Cogeneration, for good cause shown by Hopewell Cogeneration, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those alleged violations specifically identified herein including those matters addressed in the Notice of Violation issued to Hopewell Cogeneration on December 18, 2002. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For the purposes of this Order and subsequent actions with respect to this Order, Hopewell Cogeneration admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Hopewell Cogeneration consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Hopewell Cogeneration declares it has received fair and due process under the Administrative Process Act, Code ' ' 2.2-4000 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Hopewell Cogeneration to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hopewell Cogeneration shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Hopewell Cogeneration must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Hopewell Cogeneration shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.Failure to so notify the Regional Director within 24 business hours of learning of any condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Hopewell Cogeneration. Notwithstanding the foregoing, Hopewell Cogeneration agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Hopewell Cogeneration. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hopewell Cogeneration from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.

12. By its signature below, Hopewell Cogeneration voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Hopewell Cogeneration Limited Partnership.

Date: \_\_\_\_\_

\_\_\_\_\_  
Charles Davis  
Direct-Plant Manager

State of Virginia

City/County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_

2003, by \_\_\_\_\_, \_\_\_\_\_ on behalf of Hopewell  
Charles Davis Direct-Plant Manager

Cogeneration Limited Partnership.

\_\_\_\_\_  
My commission expires:  
Date

\_\_\_\_\_  
Notary Public

